

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

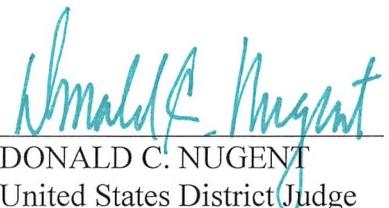
ALBERT M. HILTON,)	CASE NO. 5: 19 CR 1390
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	<u>ORDER ADOPTING</u>
)	<u>MAGISTRATE'S REPORT AND</u>
)	<u>RECOMMENDATION</u>
BRANDESHAWN HARRIS,)	
Warden,)	
)	
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Carmen E. Henderson. The Report and Recommendation (ECF # 8), issued on December 14, 2020, is hereby ADOPTED by this Court. Petitioner filed this action requesting a writ of habeas corpus pursuant to 28 U.S.C. §2254, challenging the constitutionality of his judgment of conviction on June 24, 2015 and sentencing on July 27, 2015.

The Magistrate Judge recommends that the Petition be dismissed as time barred as it was not filed within the one year statute of limitations period under 28 U.S.C. § 2244(d)(1) and because Petitioner is not entitled to equitable tolling. Magistrate Judge Henderson further recommends that Petitioner not be granted a certificate of appealability.

The Petitioner did not file any objections to the Report and Recommendation, nonetheless, the Court has reviewed *de novo* the Report and Recommendation, *see Ohio Citizen Action v. City of Seven Hills*, 35 F. Supp. 2d 575, 577 (N.D. Ohio 1999). The Magistrate's Report and Recommendation fully and correctly addresses all of the arguments raised by the

parties, and properly and justly analyzes the applicable law. This Court, therefore, adopts the Magistrate's Report in its entirety. Further, for the reasons stated in the Magistrate Judge's Report and Recommendation, a reasonable jurist could not conclude that dismissal of the Petition is in error or that Petitioner should be permitted to proceed further. Accordingly, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); FED. R. APP. P. 22(b). IT IS SO ORDERED.



DONALD C. NUGENT
United States District Judge

DATED:

March 23, 2021